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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/645,504 | 08/22/2003 | Makoto Takamura | 033022-009 | 8738 |

21839 7590 12/15/2006

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| EXAMINER |
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PATEL, ASHOK

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| ART UNIT | PAPER NUMBER |
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2879

DATE MAILED: 12/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/645,504 | Applicant(s) TAKAMURA, MAKOTO | |
| | Examiner Ashok Patel | Art Unit 2879 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,9 and 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,9 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/23/2006 has been entered.

2. Applicant's arguments with respect to claims 1,4, 9 and 10 have been considered but are moot in view of the new ground(s) of rejection.

3. Claims 1, 4, 9 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 16: the term "the electrodes which are cathodes" lacks antecedent basis. Note that claim 1 does not recite or define more than one cathode anywhere. Also note that only second electrode acts as cathode. First and third electrodes act as anodes.

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Lines 16-17: the term "the organic electroluminescent layer" lacks antecedent basis. The claim recites a first electroluminescent layer and a second organic electroluminescent layer. It remains unclear as to which organic electroluminescent layer (out of the first and second organic electroluminescent layers) is being referred to at lines 16-17.

Last line: the term "another metal" lacks proper antecedent basis. It is unclear as to what the term "another" means.

As to claim 1, lines 12-14: the Examiner proposes to change the limitation "wherein at least one of the first and second electrodes for transmitting electroluminescence emitted light is a transparent electrode, and a metal film is formed on a boundary between....." to --wherein at least one of the first and second electrodes is a transparent electrode for transmitting electroluminescence light emitted from the electroluminescent layers, and wherein there is formed a metal film on a boundary between.....-- to read the claimed limitation more clearly. Note that claim 1 does not define the at least one of the first and second electrodes as being electroluminescent light transmitting electrode.

In claim 9, lines 17-18: the term "the electrodes which are cathodes" lacks antecedent basis. Claim 9 does not recite cathodes at all.

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Line 18: the term "the organic electroluminescent layer" lacks antecedent basis. The claim recites a first electroluminescent layer and a second organic electroluminescent layer. It remains unclear as to which organic electroluminescent layer (out of the first and second organic electroluminescent layers) is being referred to at lines 16-17.

Last line: the term "another metal" lacks proper antecedent basis. It is unclear as to what the term "another" means.

As to claim 9, lines 14-15: the Examiner proposes to change the limitation "wherein at least one of the electrodes for transmitting electroluminescence emitted light is a transparent electrode, and a metal film is formed on a boundary between....." to --wherein at least one of the electrodes is a transparent electrode for transmitting electroluminescence light emitted from the electroluminescent layers, and wherein there is formed a metal film on a boundary between.....-- to read the claimed limitation more clearly. Note that claim 9 does not define the at least one of the electrodes as being electroluminescent light transmitting electrode.

Claims 4 and 10 are necessarily rejected since they depend upon rejected base claims 1 and 9.

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4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 4, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Osamu et al (Japanese document 06-176870).

As to claims 1 and 9, Osamu et al disclose applicant's claimed organic electroluminescent (EL) display device (at least Figure 1) including: a substrate (11), a first electrode (anode 12) formed on the substrate, a first organic electroluminescence layer (14) provided on an upper layer of the first electrode; a second electrode (15) provided on the first organic electroluminescence layer; a second organic electroluminescence layer (16) provided on the second electrode, and a third electrode (18) provided on the second electroluminescence layer,

wherein the first, second and third electrodes act as an anode and a cathode formed alternately, wherein at least one of the first (anode) and second (cathode) electrodes for transmitting electroluminescence emitted light is a transparent electrode, and there is formed a metal film formed of metal oxides or other metal (ITO or SnO₂ or gold or nickel or Ag (see

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detailed Description, paragraph 0011, 0019), on a boundary (as clearly shown in Figure 1) between any of the electrodes which are cathodes and the organic electroluminescence layer.

As to claims 1 and 9, applicant's claimed composition for the metal is recited so broadly that the Examiner interprets the composition broadly selectively from the Osamu et al prior art reference.

As to claims 4 and 10, applicant is claiming an information terminal including the organic EL device of claims 1 and 9, which is not disclosed by Osamu et al. However, it has been held that a recitation with respect to the manner in which a claimed EL device is intended to be employed/used does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). Therefore, the intended use limitation is not given any patentable weight.

Additionally/alternatively as to claim 4 and 12, a recitation of the intended use of claimed invention within an information terminal must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it means the claim, *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458,


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459 (CCPA 1963). Therefore, the intended use limitation is not given any patentable weight.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok Patel whose telephone number is 571-272-2456. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on 571-272-2457. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ashok Patel
Primary Examiner
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